

Small Business Administration

§ 117.15

process. No mediator shall testify in any adjudicative proceeding, produce any document, or otherwise disclose any information obtained during the course of the mediation process without prior approval of the head of the agency appointing the mediator.

§ 117.13 Investigation and resolution of matters.

(a) SBA will make a prompt investigation whenever a compliance review indicates a possible failure to comply with this part by the recipient and additional information is needed by SBA to assure compliance with this part, or when an unresolved complaint has been returned by the FMCS, or when it appears that the complainant or the recipient is failing to comply with a mediation agreement. The investigation shall include a review of the pertinent practices and policies of the recipient, the circumstances under which the possible noncompliance with this part occurred, and other factors relevant to a determination as to whether the recipient is complying, is not complying, or has failed to comply with this part.

(b) *Resolution of matters.* If an investigation indicates a failure to comply with this part, SBA will so inform the complainant, if applicable, and the recipient that the matter will be resolved by informal means that are mutually agreeable to the parties, whenever possible.

(1) If, during the course of an investigation, the matter is resolved by informal means, SBA will put any agreement in writing and have it signed by the parties and an authorized official of SBA.

(2) If investigation indicates a violation of the Act or these regulations, SBA will attempt to achieve voluntary compliance. If SBA cannot achieve voluntary compliance, it will begin enforcement as described in § 117.15.

(3) If an investigation does not warrant action, SBA will so inform the complainant, if applicable, and the recipient in writing.

§ 117.14 Intimidating or retaliatory acts prohibited.

No complainant, recipient or other person shall intimidate, threaten, coerce, or discriminate against any indi-

vidual for the purpose of interfering with any right or privilege secured by this part or because an individual or group has made a complaint, testified, assisted, or participated in any manner in an investigation, review, enforcement process, or hearing under this part. The identity of complainants shall be kept confidential except to the extent necessary to carry out the purposes of this part, including the conduct of any investigation, hearing, mediation, or judicial proceeding.

§ 117.15 Procedure for effecting compliance.

(a) *General.* (1) If there appears to be a failure or threatened failure to comply with this part by an applicant or recipient and if the noncompliance or threatened noncompliance cannot be resolved by informal means, compliance with this part may be effected by suspending, terminating, or refusing any financial assistance approved but not yet disbursed to an applicant. In the case of loans partially or fully disbursed, compliance with this part may be effected by calling, canceling, terminating, accelerating repayment, or suspending in whole or in part the Federal financial assistance provided. The determination of the recipient's violation may be made only after a recipient has had an opportunity for a hearing on the record before an administrative law judge.

(2) In addition, compliance may be effected by any other means authorized by law. Such other means may include, but are not limited to:

(i) Action by SBA to accelerate the maturity of the recipient's obligation;

(ii) Referral to the Department of Justice with a recommendation that appropriate proceedings be brought to enforce any rights of the United States under any law of the United States or obligations of the recipient created by the Act or this part; and

(iii) Use of any requirement of or referral to any Federal, State or local government agency that will have the effect of correcting a violation of the Act or these regulations.

(3) If there appears to be a failure or threatened failure to comply with this part by an SBA office or official, the Assistant Administrator, Office of